

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS LOCAL 22 HEALTH &
WELFARE FUND; AMERICAN
FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES DISTRICT
COUNCIL 47 HEALTH AND WELFARE
FUND; and UNITED FOOD AND
COMMERCIAL WORKERS UNION
LOCAL 1776 AND PARTICIPATING
EMPLOYERS HEALTH AND WELFARE FUND,
on behalf of themselves and all others similarly
situated,

Plaintiffs

v.

ASTRAZENECA PHARMACEUTICALS LP;
ASTRAZENECA LP; ASTRAZENECA AB; and
AKTIEBOLAGET HASSLE

Defendants.

Plaintiffs, on behalf of themselves and all others similarly situated, file this Class Action Complaint against Defendants. Plaintiffs, upon knowledge as to matters relating to themselves and upon information and belief as to all other matters, allege as follows:

NATURE OF THE ACTION

1. This class action is brought on behalf of all end payors in the United States who paid for Toprol-XL® (“Toprol-XL”) during the period from May 5, 2005 to the present (the “Class Period”) to remedy unlawful anti-competitive conduct by Defendants in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2, and the antitrust and/or unfair business competition statutes of twenty-two states and the District of Columbia. Defendants’ unlawful

conduct prevented generic versions of Toprol-XL from coming to the United States market, thereby causing injury to Plaintiffs and other members of the class.

2. Toprol-XL is a prescription drug used to treat hypertension, angina, and congestive heart failure. In 2005 U.S. sales of Toprol-XL were approximately \$1.3 billion. No generic version of Toprol-XL is currently marketed in the United States because Defendants, through improper manipulation of patent filings and the filing of baseless patent infringement lawsuits, have unlawfully monopolized and/or attempted to monopolize the domestic market for Toprol-XL and its generic bioequivalents.

3. The United States District Court for the Eastern District of Missouri has recently found that two of Defendants' patents covering metoprolol succinate, the active ingredient in Toprol-XL, are invalid and unenforceable. These are known as the '154 patent and the '161 patent. Among other things, the Court found that Defendants' conduct before the U.S. Patent and Trade Office was inequitable, committed with the intent to deceive, and so culpable that it rendered those patents unenforceable.

4. Manufacturers of generic drugs, including KV Pharmaceutical Co., Andrx Pharmaceuticals, LLC, Andrx Corp., and Eon Labs, Inc. (collectively "the generic manufacturers") have filed applications with the FDA requesting approval to market generic versions of Toprol-XL. In their applications, the generic manufacturers assert that their products are bioequivalent to Toprol-XL and that Defendants' claimed patents are invalid.

5. Defendants have engaged in anticompetitive conduct designed to prevent competition from manufacturers of generic bioequivalents to Toprol-XL. Defendants' anticompetitive conduct includes wrongfully listing the '154 and '161 patents with the FDA, purportedly related to Toprol-XL, for the sole purpose of preventing generic competition.

Defendants have also filed baseless patent infringement actions, preventing generic versions of Toprol-XL from entering the U.S. market.

6. Count I of this Complaint seeks injunctive and declaratory relief under Section 16 of the Clayton Act, 15 U.S.C. § 26 on behalf of a class of end payors who purchased or paid for Toprol-XL (the “Nationwide End-Payor Class”). Plaintiffs do not seek monetary damages under section 4 of the Clayton Act, 15 U.S.C. § 15.

7. Count II of this Complaint alleges monopolization of the market for Toprol-XL in violation of the antitrust laws and/or deceptive trade practices laws of Arizona, California, District of Columbia, Florida, Iowa, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, Vermont, West Virginia and Wisconsin (collectively, the “Indirect Purchaser States”), and seeks damages on behalf of end payors who purchased or paid for Toprol-XL in the Indirect Purchaser States (the “Indirect Purchaser Class”).

8. Count III is brought by Plaintiffs on their own behalf and on behalf of the Nationwide End-Payor Class, seeking a constructive trust and disgorgement of the unjust enrichment of Defendants.

JURISDICTION AND VENUE

9. This action is brought under Section 16 of the Clayton Act, 15 U.S.C. § 26, for injunctive relief, and the costs of suit, including reasonable attorneys' fees, for injuries to Plaintiffs and members of the class resulting from, *inter alia*, Defendants' violations of the federal antitrust laws. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1337, 15 U.S.C. § 26, and 28 U.S.C. § 1332(d)(2). This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367(a).

10. Venue is proper in this judicial district pursuant to 15 U.S.C. § 22, and 28 U.S.C. § 1391(b) because Defendants reside, transact business, are found, and/or have agents in this district, and because a substantial portion of the affected trade and commerce described below has been carried out in this district.

INTERSTATE TRADE AND COMMERCE

11. During all or part of the relevant time period:

- (i) Defendants manufactured and sold substantial amounts of Toprol-XL in a continuous and uninterrupted flow of commerce across state and national lines and throughout the United States;
- (ii) Defendants transmitted funds as well as contracts, bills, and other forms of business communications and transactions in a continuous and uninterrupted flow of commerce across state and national lines in connection with the sale of Toprol-XL; and
- (iii) Defendants employed, in furtherance of their monopolization and attempt to monopolize, as alleged herein, the United States mails

and interstate and international telephone lines as well as means of interstate and international travel.

12. The illegal monopolization and attempt to monopolize the market for Toprol-XL and its generic bioequivalents alleged herein have substantially affected interstate and foreign commerce.

THE PARTIES

Plaintiffs

13. Plaintiff International Association of Fire Fighters Local 22 Health and Welfare Fund is a health and benefit fund for the benefit of present and retired workers of the union and their families. The Fund was established pursuant to a duly executed Trust Agreement for the purpose of providing health benefits, including prescription benefits, to its defined beneficiaries. The Fund maintains its principal place of business in Philadelphia, Pennsylvania.. At various times during the Class Period, the Fund has paid for the purchase of Toprol-XL.

14. Plaintiff American Federation of State, County, and Municipal Employees District Council 47 Health and Welfare Fund is a health and benefit fund operated for the benefit of present and retired workers of the union and their families. The Fund was established pursuant to a duly executed Trust Agreement for the purpose of providing health benefits, including prescription benefits, to its defined beneficiaries. The Fund maintains its principal place of business in Philadelphia, Pennsylvania. At various times during the Class Period, the Fund has paid for the purchase of Toprol-XL.

15. Plaintiff United Food and Commercial Workers Union Local 1776 and Participating Employers Health and Welfare Fund is a health and benefit fund operated for the

benefit of present and retired workers of the union and their families. The Fund was established pursuant to a duly executed Trust Agreement for the purpose of providing health benefits, including prescription benefits, to its defined beneficiaries. The Fund maintains its principal place of business in Plymouth Meeting, Pennsylvania. At various times during the Class Period, the Fund has paid for the purchase of Toprol-XL.

Defendants

16. Defendant AstraZeneca Pharmaceuticals LP is a company organized and existing under the laws of Delaware, which distributes, markets, and sells throughout the United States pharmaceutical products including Toprol-XL. Its U.S. headquarters is located in Wilmington, Delaware. AstraZeneca Pharmaceuticals LP is a U.S. Subsidiary of AstraZeneca PLC, and was created as a result of a 1999 merger between Zeneca Pharmaceuticals and Astra Pharmaceuticals.

17. Defendant AstraZeneca LP is a company organized and existing under the laws of Delaware with its principal place of business in Wilmington, Delaware. AstraZeneca LP holds an approved New Drug Application from the United States Food and Drug Administration (“FDA”) for metoprolol succinate preparations with extended release, which it sells under the brand name Toprol-XL. AstraZeneca LP is a U.S. subsidiary of AstraZeneca PLC.

18. Defendant AstraZeneca AB is a company organized and existing under the laws of Sweden, having its principal place of business at Sodertalje, Sweden.

19. Defendant Aktiebolaget Hassle is a company organized and existing under the laws of Sweden, having its principal place of business at Molndal, Sweden. Aktiebolaget Hassle is a wholly-owned subsidiary of AstraZeneca AB.

RELEVANT MARKET

20. To the extent applicable to the claims alleged herein, the relevant product market is the market for the manufacture and sale of metoprolol succinate, including Toprol-XL, and its generic bioequivalents rated “AB” by the FDA. The relevant geographic market is the United States as a whole (for Counts I, II and III) and the relevant geographic sub-market is the Indirect Purchaser States (for Count II). The relevant product market and relevant geographic market (and sub-market) for Toprol-XL are collectively described herein as the market for Toprol-XL. At all relevant times, including the present, Defendants’ market share of the market for Toprol-XL was and is 100%.

DEFENDANTS’ VIOLATIONS OF THE LAW

21. Defendants have successfully forestalled generic competition to Toprol-XL from entering the market by fraudulently obtaining patents from the United States Patent & Trademark Office (“PTO”), wrongfully listing those patents in the FDA Orange Book, and bringing and maintaining sham patent infringement suits against potential generic competitors based on those patents.

22. In particular, defendants have falsely asserted that two patents covering Toprol-XL foreclose generic competition, viz. U.S. Patent No. 5,001,161 (“the ‘161 patent”) and U.S. Patent No. 5,081,154 (“the ‘154 patent”).

23. In fact, as the United States District Court for the Eastern District of Missouri has recently held, defendants procured the ‘161 patent and the ‘154 patent through fraudulent means, and the patents are invalid.

24. Despite their knowledge that the '161 patent and the '154 patent had been obtained through fraudulent means and were invalid, defendants listed those patents in the FDA Orange Book and brought patent infringement suits against a number of potential generic competitors, both for the purpose of blocking generic competition to Toprol-XL.

25. Defendants' unlawful conduct has succeeded in blocking generic competition to Toprol-XL for a significant period of time. Absent defendants' unlawful conduct, generic competition would have arisen sooner.

26. Defendants' wrongful listing of the '161 and '154 patents in the Orange Book has delayed and prevented the entry of generic formulations of Toprol-XL into the United States market.

27. Defendants' baseless patent infringement lawsuits are delaying and preventing the entry of generic formulations of Toprol-XL into the United States market.

28. Defendants' listing of the '161 and '154 patents and subsequent lawsuits had and have no legitimate or lawful purpose. Rather, the wrongful listing and lawsuits have the intended effect of taking advantage of certain provisions of the Hatch-Waxman Act, 21 U.S.C. §355, 35 U.S.C. §271 to delay FDA approval of ANDAs for Toprol-XL, impermissibly extending Defendants' monopoly over the market for Toprol-XL and its generic equivalents.

29. The purpose of Defendants' anticompetitive conduct is to obtain and maintain monopoly power in the market for Toprol-XL and its generic equivalents.

30. Defendants have succeeded in obtaining unlawful market power. With their monopoly power, Defendants have fixed prices for Toprol-XL at artificially high and supracompetitive levels.

31. There are a number of generic manufacturers that both intended to enter the market with generic versions of Toprol-XL and were prepared to do so prior to the beginning of the Class period. The entry of some or all of those manufacturers into the market was prevented by defendants' unlawful conduct as alleged herein.

32. Due to Defendants' monopolization, manufacturers of generic bioequivalents of Toprol-XL are being restrained and denied the opportunity to market competing products, which would be marketed at substantially lower prices.

33. Defendants have engaged in monopolistic practices concerning Toprol-XL to avoid a loss in market share and revenues that would inevitably result following the introduction to the market of a competing generic product.

34. As a result of Defendants' anticompetitive conduct, plaintiffs and the Class have been forced to pay supracompetitive and artificially high prices for Toprol-XL.

CLASS ACTION ALLEGATIONS

35. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil Procedure, specifically Rules 23(b)(2) and 23(b)(3), on behalf of the following Class:

All persons or entities in the United States and its territories who purchased, paid and/or reimbursed for Toprol-XL intended for use by themselves, their families, or their members, employees, or insureds during the period May 5, 2005 through the present. Excluded from the class are all of the defendants, their respective subsidiaries and affiliates, all governmental entities, and all persons or entities that purchased Toprol-XL (i) for purposes of resale or (ii) directly from any of the defendants.

36. Count II applies to purchases of Toprol-XL by members of the class in the Indirect Purchaser States during the Class Period (the "Indirect Purchaser State Claims"). The Indirect Purchaser States are: Arizona, California, District of Columbia, Florida, Iowa, Kansas,

Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Mexico, New York, North Carolina, North Dakota, South Dakota, Tennessee, Vermont, West Virginia, and Wisconsin.

37. Plaintiffs believe, and therefore aver, that there are thousands of members in the above-described Class; their exact number and identities being currently unknown to Plaintiffs, but known to Defendants and/or ascertainable from appropriate discovery.

38. Among the questions of law and fact common to the Class are:

- (i) Whether Defendants have unlawfully monopolized or attempted to monopolize the market for Toprol-XL and its generic equivalents;
 - (ii) Whether Defendants possessed and/or unlawfully extended their monopoly power over the market for Toprol-XL and its generic equivalents;
 - (iii) Whether Defendants, through their monopolization and/or attempted monopolization, have caused the prices of Toprol-XL to be maintained at supracompetitive levels;
 - (iv) Whether Defendants wrongfully listed the '161 and '154 patents in the Orange Book;
 - (v) Whether Defendants' patent infringement lawsuits against horizontal competitors and potential competitors that have filed ANDAs for generic Toprol-XL constitute baseless litigation;
 - (vi) Whether the Class suffered and continues to suffer antitrust injury;
- and

- (vii) Whether Defendants were and continue to be unjustly enriched to the detriment of the Class, entitling Plaintiffs and the Class to disgorgement of all monies resulting therefrom.

39. Plaintiffs' claims are typical of the Class because Plaintiffs and all members of the Class were injured and continue to be injured in the same manner by Defendants' unlawful, anticompetitive and inequitable methods, acts and practices, and wrongful conduct complained of herein, *i.e.*, they have paid supracompetitive and artificially high prices for Toprol-XL and will continue to be forced to do so until the markets for Toprol-XL and its generic equivalents are competitive and prices reach competitive levels.

40. Plaintiffs will fully and adequately protect the interests of all members of the Class. Plaintiffs have retained counsel who are experienced in antitrust class action litigation. Plaintiffs have no interests adverse to, or in conflict with, other members of the Class.

41. The questions of law and fact common to the members of the Class predominate over any questions which may affect only individual members.

42. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The Class is readily definable and prosecution as a class action will eliminate the possibility of duplicative litigation, while also providing redress for claims which would otherwise be too small to support the expense of individual, complex litigation.

43. Defendants have acted or refused to act, as alleged herein, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief and/or corresponding declaratory relief with respect to the Class as a whole.

COUNT I

**FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER SECTION 16 OF THE
CLAYTON ACT FOR VIOLATIONS OF SECTION 2 OF THE SHERMAN ACT**

44. Plaintiffs repeat and reallege all preceding paragraphs of this Complaint as if fully set forth herein.

45. Defendants' wrongful listing of the '161 and '154 patents in the Orange Book and commencement and/or maintenance of baseless patent infringement lawsuits against generic drug manufacturers that have filed ANDAs for approval to market a generic formulation of Toprol-XL violate § 2 of the Sherman Act.

46. Defendants listed the '161 and '154 patents in the Orange Book in contravention of FDA regulations and with the intended effect of delaying the introduction of generic formulations of Toprol-XL into the market.

47. Defendants commenced and are maintaining their patent infringement lawsuits with knowledge that the ANDAs filed by the generic manufacturers against which the lawsuits were filed do not infringe the '161 and '154 patents.

48. Defendants commenced patent infringement lawsuits for the unlawful purpose of delaying the FDA's approval of an ANDA for a generic bioequivalent to Toprol-XL. The intended effect of these baseless patent infringement lawsuits was to delay the introduction of generic formulations of Toprol-XL into the market.

49. Defendants' patent infringement lawsuits were and are objectively baseless and an attempt to interfere directly with the business relationships of Defendants' competitors.

50. Defendants' repetitive patent infringement lawsuits were and are part of a policy to commence legal proceedings without regard to their merits and for the purpose of injuring competitors, customers, and end-payors.

51. Defendants, through the conduct complained of herein, monopolized and attempted to monopolize the market for Toprol-XL.

52. While obtaining and possessing its unlawful monopoly power over the market for Toprol-XL, Defendants fixed, maintained, and raised the price of Toprol-XL at artificially high and/or supracompetitive levels, thus injuring plaintiffs and the class in their business and property.

53. Plaintiffs and the Class are entitled to a declaration that Defendants' monopolization and attempts to monopolize the market for Toprol-XL and its generic equivalents are in violation § 2 of the Sherman Act.

54. Plaintiffs and the Class are entitled to an injunction pursuant to § 16 of the Clayton Act enjoining Defendants' continued monopolistic practices.

55. Plaintiffs and the Class have no adequate remedy at law.

COUNT II

FOR DAMAGES UNDER THE ANTITRUST AND DECEPTIVE PRACTICE STATUTES OF THE INDIRECT PURCHASER STATES

56. Plaintiffs repeat and reallege all preceding paragraphs of this Complaint as if fully set forth herein.

57. This Count is brought by Plaintiffs on behalf of the Class to assert the Indirect Purchaser State Claims.

58. The attempts to monopolize and monopolization of the relevant market alleged herein violate the Indirect Purchaser States' antitrust and/or deceptive practice statutes as follows:

- (i) The aforementioned practices by Defendants were and are in violation of Arizona Revised Statutes § 44-1408B;
- (ii) The aforementioned practices by Defendants were and are in violation of the Cartwright Act, California Business and Professions Code Sections 16700, *et. seq.* and/or the California Unfair Competition Act, California Business and Professions Code Sections 17200, *et. seq.*;
- (iii) The aforementioned practices by Defendants were and are in violation of the District of Columbia Code §28-4502, *et seq.* (1996 Rpl.);
- (iv) The aforementioned practices by Defendants were and are in violation of Chapter 501, Part II, Florida Statutes (the Florida Deceptive and Unfair Trade Practices Act);
- (v) The aforementioned practices by Defendants were and are in violation of Iowa Code §§ 553.4, 553.5 (1997);
- (vi) The aforementioned practices by Defendants were and are in violation of Kansas Statutes Annotated §§ 50-801(b) and 50-101, *et seq.*;
- (vii) The aforementioned practices by Defendants were and are in violation of Louisiana Revised Statutes § 51:137, *et. seq.*;
- (viii) The aforementioned practices by Defendants were and are in violation of Maine Revised Statutes Annotated, 10 M.R.S.A. §1101, *et seq.*, and/or Maine's Unfair Trade Practices Act, 5 M.R.S.A. § 205-A, *et seq.*;
- (ix) The aforementioned practices by Defendants were and are in violation of Massachusetts Ann. Laws, Ch. 93A, *et seq.*;
- (x) The aforementioned practices by Defendants were and are in violation of the Michigan Antitrust Reform Act, MCL § 445.771, *et seq.* and/or the Michigan Consumer Protection Act, MCL § 445.901, *et seq.*;
- (xi) The aforementioned practices by Defendants were and are in violation of the Minnesota Antitrust Act of 1961, Minn. Stat. §§ 325D.49-325D.66 (1998);

- (xii) The aforementioned practices by Defendants were and are in violation of Mississippi Code Ann. §§ 75-21-1, *et seq.*;
- (xiii) The aforementioned practices by Defendants were and are in violation of Nebraska Rev. Stat. §§ 59-801 *et seq.*;
- (xiv) The aforementioned practices by Defendants were and are in violation of the New Mexico Antitrust Act, N.M. Stat. Ann. § 57-1-1 to § 57-1-5 (1998);
- (xvi) The aforementioned practices by Defendants violate the Donnelly Act, New York General Business Law § 340, *et seq.* and/or New York General Business Law § 349;
- (xvii) The aforementioned practices by Defendants were and are in violation of North Carolina Gen. Stat. §§ 75-1.1, *et. seq.*;
- (xviii) The aforementioned practices by Defendants were and are in violation of North Dakota Cent. Code § 51-08.1-08;
- (xix) The aforementioned practices by Defendants were and are in violation of South Dakota antitrust law SDCL § 37-1, *et seq.*;
- (xx) The aforementioned practices by Defendants were and are in violation of Tenn. Code Ann. § 47-25-101, *et seq.* and/or in violation of Tenn. Code Ann. § 47-18-101, *et seq.*;
- (xxi) The aforementioned practices by Defendants were and are in violation of Vermont antitrust law, Vermont Stat. § 2453, *et seq.*;
- (xxii) The aforementioned practices by Defendants were and are in violation of West Virginia Consumer Credit and Protection Act, W. Va. Code § 46A-1-101, *et seq.*; and
- (xxiii) The aforementioned practices by Defendants were and are in violation of the Wisconsin Antitrust Act § 133.01, *et seq.*.

59. Plaintiffs and the Class were injured in their business and property by, *inter alia*, paying supracompetitive and artificially inflated prices caused by Defendants'

violations of the aforementioned statutes. They seek damages and multiple damages as permitted by law for their injuries.

COUNT III

**FOR RESTITUTION, DISGORGEMENT AND CONSTRUCTIVE TRUST
FOR UNJUST ENRICHMENT BY DEFENDANTS**

60. Plaintiffs repeat and reallege all preceding paragraphs of this Complaint as if fully set forth herein.

61. Defendants have benefited from the supracompetitive and artificially inflated prices and monopoly profits on their sale of Toprol-XL resulting from their unlawful and inequitable acts alleged in this Complaint.

62. Defendants' financial benefits resulting from their unlawful and inequitable conduct are traceable to overpayments for Toprol-XL by plaintiff and members of the Class.

63. Plaintiffs and the Class have conferred upon Defendants an economic benefit, in the nature of profits resulting from unlawful overcharges and monopoly profits, to the economic detriment of Plaintiffs and the Class.

64. The economic benefit of overcharges and unlawful monopoly profits derived by Defendants through charging supracompetitive and artificially inflated prices for Toprol-XL is a direct and proximate result of Defendants' unlawful practices.

65. The financial benefits derived by Defendants rightfully belong to Plaintiffs and the Class, as Plaintiffs and the Class paid anticompetitive and monopolistic prices during the Class Period, inuring to the benefit of Defendants.

66. It would be inequitable and unjust for Defendants to be permitted to retain any of the unlawful proceeds resulting from the commencement or maintenance of baseless patent infringement lawsuits.

67. It would be inequitable for the Defendants to be permitted to retain any of the overcharges for Toprol-XL derived from Defendants' unfair and unconscionable methods, acts and trade practices alleged in this Complaint.

68. Defendants should be compelled to disgorge into a common fund for the benefit of Plaintiffs and the Class all unlawful or inequitable proceeds received by them.

69. A constructive trust should be imposed upon all unlawful or inequitable sums received by Defendants traceable to plaintiffs and the Class.

70. Plaintiffs and the Class and have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court enter an Order:

- A. certifying the Class pursuant to the Federal Rules of Civil Procedure, certifying Plaintiffs as the representatives of the Class, and designating their counsel as counsel for the Class;
- B. declaring that Defendants' commencement and/or maintenance of patent infringement lawsuits against filers of ANDAs for Toprol-XL were baseless and a violation of § 2 of the Sherman Act;
- C. declaring the Defendants' commencement and/or maintenance of patent infringement lawsuits against filers of ANDAs for Toprol-XL were baseless and a violation of the antitrust and/or deceptive practice statutes in the Indirect Purchaser States;
- D. enjoining and restraining Defendants' continuing violations of § 2 of the Sherman Act, pursuant to § 16 of the Clayton Act;

- E. granting Plaintiffs and the Class equitable relief in the nature of disgorgement, restitution, and the creation of a constructive trust to remedy Defendants' unjust enrichment;
- F. granting Plaintiffs and the Class damages or multiple damages as permitted by law;
- G. granting Plaintiffs and the Class their costs of prosecuting this action, together with interest and reasonable attorneys' fees, experts' fees and costs; and
- H. granting such other relief as this Court may deem just and proper.

JURY TRIAL DEMAND

Plaintiffs demand a trial by jury of all issues so triable in this cause.

Dated: February 6, 2006

/s/

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JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SEE ATTACHED

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) **Karen Morris**
Morris and Morris LLC Counselors at Law
4001 Kennett Pike, Ste 300, Wilmington DE 19807

DEFENDANTS

Astrazeneca Pharmaceuticals
LP, Astrazeneca LP, Astrazeneca AB,
and Aktiebolaget Hassle

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input checked="" type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. Sec. 2 and Sec. 26

Brief description of cause:

Anti-competitive action to foreclose generic drug competition

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER **06-cv-00052****06-cv-00063**

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PLAINTIFFS:

International Association of Fire Fighters, Local 22 Health & Welfare Fund:
American Federation of State, County and Municipal Employees, District Council 47 Health and Welfare Fund; and United Food and Commercial Workers Union Local 1776 and Participating Employers Health and Welfare Fund, on behalf of themselves and all others similarly situated.

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